

# MINUTES OF THE METRO COUNCIL MEETING

September 30, 1999

Metro Council Chamber

Councilors Present: Rod Monroe (Presiding Officer), Susan McLain, Ed Washington, Rod Park, Bill Atherton, David Bragdon, Jon Kvistad

Councilors Absent:

Presiding Officer Monroe convened the Regular Council Meeting at 2:06 p.m.

## 1. INTRODUCTIONS

**Presiding Officer Monroe** introduced and welcomed the three new Council Assistants: Andy Flinn, Pat Mannhalter and Pat Weathers. He noted they would be serving Councilors Atherton, Bragdon and McLain, respectively.

## 2. CITIZEN COMMUNICATION

None.

## 3. EXECUTIVE OFFICER COMMUNICATIONS

**Bruce Warner, Chief Operating Officer**, on behalf of the Executive Officer, recognized the Government Finance Officers' Association Awards. The GFOA helps set standards by which governmental agencies nationwide and worldwide operate.

The two awards recognize among other things, the outstanding achievement of the Metro financial management staff, adherence to high professional standards, and provide additional credibility for our bond rating agencies and the public.

The first award was the Distinguished Budget Presentation Award for clear presentation of an annual budget that meets professional criteria as a policy document, an operation's guide, a financial plan and a communication device. This was the third time Metro has received this award.

The second award was for Excellence in Financial Reporting for preparation of an annual comprehensive financial report to the highest standards in financial reporting. This was the seventh time Metro has received this award.

**Presiding Officer Monroe** presented the awards to Jennifer Sims.

**Jennifer Sims** said they now had ten awards. She recognized those who really did the work. For the Excellence in Financial Reporting award. Don Cox and Karla Lenox were key to putting the report together. She presented additional certificates to them for their excellent work. Estelle Mazurkiewicz, Becky Thorpe, Howard Hansen, Janet Tolopka provided backup assistance.

For the Distinguished Budget Presentation Award, acknowledgement was given to budget coordinator Kathy Rutkowski with backup assistance provided by Cheri Yasami, and Tom

Indieke, and Craig Prosser, who has since left Metro. Leading Metro's team for next year will be Tony Mounts.

**Councilor Atherton** added his congratulations. He noted how special these awards were. This recognition was awarded to about one percent of local member jurisdictions.

#### 4. AUDITOR COMMUNICATIONS

**Alexis Dow**, Metro Auditor and Jim McMullin, presented the Metropolitan Exposition - Recreation Commission Parking Revenue Report. She said the report suggested better controls were needed.

The two parking lots that MERC managed were studied. The one at the Oregon Convention Center and the one at the Expo Center. Approximately \$1.8 million was generated from those two lots per year: about 60% from the Expo Center and about 40% from the OCC. Ace Parking managed the Expo Center lot, and City Center managed the OCC. The audit objectives were to verify that cash collected be safeguarded from theft and mishandling and that it be appropriately recorded in the handling records. Generally, it was detected that the controls currently in place were inadequate to prevent or detect theft. The audit did not conclusively detect theft, but there was a high risk that it was occurring, simply because the industry was prone to theft. This was because people who were making at or minimum wage were handling large amounts of cash.

Issues found at the OCC are that tickets are not used, so money cannot be accounted for and verified against tickets issued, and exempted vehicles are not tracked. A loop counter was in place but it was a very unreliable method for counting vehicles. Documentation received from the contractor was often incomplete and/or illegible. Cash boxes and cash handling were shared among individuals without established accountability.

Expo Center's system was better. Tickets were issued and accounted for, however, exempt vehicles were not tracked. There was a loop counter, and reconciliation of tickets to cash was being done. Expansion to account for passes and exemptions against the vehicular count, not the loop counter, needed to be in place.

Compounding these lack of controls in both locations, it was found that there were no audits of lot activity occurring and there was no periodic surveillance of the attendants. These were both very important procedures, so much so that MERC had included them in the contractor's contract for regular performance. However, lot managers were not enforcing the contract provisions. The troubling aspect was that some of these type of problems were cited in the two most recent parking operations audits, 1990 and 1992, and the situation still exists.

Another aspect of parking revenue involved employee parking privileges at the OCC. The lot was leased from the State of Oregon and MERC pays about \$40,000 per year rental. It was used by MERC employees and concessionaire employees. In addition to rent, there were some amortized maintenance and improvement costs.

The Auditor's Office recommended that employees pay for parking for two reasons: one was that free parking was not consistent with Metro policy, and that the revenue could be increased by charging these employees the geographical market rate which would increase revenue by about \$45,000 and could be applied to operating costs which would then about break even.

In addressing the recently adopted Metro policy, it was indicated that the parking could be operated in a more entrepreneurial fashion. More importantly, much of what Metro did in making a more livable community was looking for alternatives for, in particular, singular vehicular occupancy. A recent survey of that lot indicated that 73% of vehicles were singular occupancy vehicles.

She summarized by saying some recommendations were that there be a management system established at the OCC to properly control the parking revenues; that MERC require the contractor's to make and document lot audits and attendant surveillance; that employees be charged to park in the OCC lot; and, that a consultant be used to develop revenue controls for the new OCC parking facility. With the expansion of the OCC lot, the existing lot will be built upon and the new parking facility built in conjunction with that. The lot will be closed as early as next April, but with the plans still being drawn up, parking controls and facility design should be discussed. Other recommendations more specific to procedures would be to establish an auditable way to document the exempt vehicles; to provide City Center with a space at the OCC to prepare deposits because currently they are taking them off-site to do that; establish a separate safe for parking receipts at EXPO Center because they are using a concessionaire's safe; and to improve the timeliness of bank deposits through coordinated armored car service.

In MERC's response, they agreed with most of the recommendations and agreed to take action on all of the items. Subsequent to that letter, another more specific and detailed letter was received assuring that many of the recommendations would be in place by the month end (September 30, 1999). Ms. Dow asked if there were any questions.

**Councilor Park** asked Ms. Dow if there was statistical proof of the statement that theft was prominent among minimum wage persons who handle cash.

**Ms. Dow** deferred to Mr. McMullin in response to Councilor Park's question.

**Jim McMullin, Auditor**, said they had talked with two consultants, one being the editor of *Parking Today*, and it had been recommended to Metro that it was a known issue that because of the amount of money in cash that was handled, and prosecutions for theft, there was a lot of opportunity and it actually happened that attendants stole money. There was a two-year, certification program in Management Parking Facilities, and an important aspect of that program was revenue control and auditing. It was a major element of any parking operation due to the fact that money was available for the taking.

**Councilor Park** said he found the statement that was made to be personally offensive. The statement bothered him. A greater amount of theft occurs at a much higher income level than the minimum wage level of parking attendants. To make an assumption that because a person working at minimum wage was less honest than a higher paid individual was bothersome.

**Councilor Washington** dittoed Councilor Park's remark. He felt the Auditor's statement was totally inappropriate. Many of the individuals working at minimum wage jobs were not low income people. Many were retired, possibly with a fairly decent income. That statement coming from an auditor concerning Metro employees, did not sound very good.

**Ms. Dow** said she appreciated the councilors comments, she was repeating industry comments. She emphasized that when there was a lack of controls, the temptation was great. That statement presumed that people in need may be more greatly tempted. Within the auditing profession, in establishing control procedures it was best not to place a person in a tempting position. Honest people can be pressured to do dishonest acts. Minimum wage earners have difficulty in making ends meet. However, the statement was not meant to imply that they were any less honest than any one else.

**Councilor Washington** said this was troubling. First, no one knew if those facts were true. He felt it showed a lack of sensitivity. He said as a public official there can be many accusations in the industry that do not have to be played out. Public officials have to be above that, and the statement was very insensitive.

**Councilor McLain** said in order to verify any of the assumptions Ms. Dow made, there must be a record of prosecutions made in those locations, and statistical data would be necessary before an assumption as stated by Ms. Dow could be made. Councilor McLain was interested in reviewing suggestions regarding improving the accountability of the system, but not interested in a report indicating class-type comments.

**Ms. Dow** said in closing she was very glad that the report had generated prompt response and that Metro's assets were being better protected as we speak.

## **5. MPAC COMMUNICATION**

**Councilor McLain** said she was the only councilor at MPAC. There were several issues considered at the meeting. An update on the Urban Growth Report, as well as a Parks Functional Plan presentation, and update of the Greenspace Master Plan by Mr. Charlie Ciecko and his team. Mr. Zehren suggested a possible motion for an alternative to some of the work plan issues and work would continue by means of a sub-committee created. There would be more coming to Council in the next couple of months.

## **6. CONSENT AGENDA**

6.1 Consideration of the meeting minutes of the September 16, 1999 and September 23, 1999 Regular Council Meetings.

**Motion:** **Councilor McLain** moved to adopt the meeting minutes of September 16, 1999 and September 23, 1999 Regular Council Meetings.

**Seconded:** **Councilor Washington** seconded the motion.

**Councilor Park** had a procedural question since he was not present for the September 23, 1999 meeting, and was being asked to vote on both meetings in one vote.

**Councilor Kvistad** responded with the suggestion to split the meeting dates and vote on each independently.

**Presiding Officer Monroe** divided the voting on the minutes beginning with the September 16, 1999 meeting minutes. There being no corrections or additions to the minutes, the vote was taken.

**Vote:** The vote was 7 aye/ 0 nay/ 0 abstain. The motion passed.

Consideration meeting minutes of the September 23, 1999 Regular Council Meeting.

**Presiding officer Monroe** then asked for corrections or additions to the September 23, 1999 meeting minutes. There being no corrections or additions to the minutes, the vote was taken.

**Vote:** The vote was 4 aye/ 0 nay/ 3 abstain. The motion passed with Councilors Park, Kvistad and Bragdon abstaining from the vote.

## 7. ORDINANCES - SECOND READING

7.1 **Ordinance No. 99-814**, For the Purpose of Renewing the Solid Waste License for Operation of the Wastech Materials Recovery Facility.

**Motion:** **Councilor McLain** moved to adopt Ordinance No. 99-814.

**Seconded:** **Councilor Washington** seconded the motion.

**Motion to Substitute:** **Councilor McLain** moved to substitute Ordinance No. 99-814 with 99-814A.

**Seconded:** **Councilor Washington** seconded the motion.

**Councilor McLain** said this particular ordinance was in front of the REM committee two weeks ago and the ordinance was basically amended by the discussion. The purpose was to renew a waste license for the Wastech Material Recovery facility with the following added amendments. First added was the "Whereas" indicating the recent decline in recycling activity which may have negatively impacted Metro's ability to meet its adopted regional recycling rate goals. Under Actions, 2. and 3. were added: that the Executive Officer shall continue to monitor the recycling rates at the Wastech facility and other similar facilities; and, the Executive Officer shall continue to review the need for modification to any material recovery facility licenses and franchises for the purpose of improving recycling rates at such facilities, and report to the Council within six months on the need for any license and franchise modifications. If modifications were needed and amendments had to be made, they would be affecting all similarly situated franchises. Company and committee representatives seem to have no problem with these technical amendments and this could be voted on by Council today.

There was no discussion on the motion to substitute.

**Presiding Officer Monroe** asked Mr. Cooper to reiterate that it would be legal and appropriate for Council to take final action today.

**Mr. Cooper** said yes.

**Councilor Park** stated that the presentation by representatives of Waste Management did help with numbers and rates, but he was still uncomfortable with some of the information, but could support the measure because Council can review and restructure if necessary.

**Councilor Kvistad** asked for clarification that the motion to substitute reflects only the two changes indicated by Councilor McLain.

**Councilor McLain** nodded in the affirmative.

**Vote to**

**Substitute:** The vote was 7 aye/ 0 nay/ 0 abstain. The motion passed to substitute 99-814A for 99-914.

**Presiding Officer Monroe** opened a public hearing on Ordinance No. 99-814A. No one came forward. Presiding Officer Monroe closed the public hearing.

**Councilor McLain** stated that although the amendments were more technical in nature, they were important because they addressed issues both the committee and Councilor Park had in recycling rate changes. Specifically identifying which rates were going up, which were going down and having different facilities with different purposes had changed the rates. The kind and type of recycling that were going down was important, and she urged its approval.

**Vote on the**

**Main Motion:** The vote was 7 aye/ 0 nay/ 0 abstain. The motion passed on Ordinance No., 99-814A.

7.2 **Ordinance No. 99-815**, For the Purpose of Transferring the Solid Waste Franchise for Operation of the Recycle America Reload/Materials Recovery Facility from Waste Management of Oregon, Inc. to USA Waste of Oregon, Inc.

**Motion:** **Councilor Washington** moved to adopt Ordinance No. 99-815.

**Seconded:** **Councilor McLain** seconded the motion.

**Motion to**

**Substitute:** **Councilor Washington** moved to substitute Ordinance No. 99-815 with Ordinance No. 99-815A.

**Seconded:** **Councilor McLain** seconded the motion.

**Councilor Washington** stated the purpose of this ordinance was to transfer the existing material recovery facility franchise for Recycle America facilities from Waste Management of Oregon to USA Waste of Oregon. Metro Code requires Council approval. The proposed transfer was needed due to the corporate restructuring that occurred following the merger of Waste Management and USA, Inc. The same amendments were being made to this ordinance as in the last due to the decrease in recycling. He urged its passage.

**Vote to**

**Substitute:** The vote was 7 aye/ 0 nay/ 0 abstain. The motion passed substituting Ordinance 99-815 with Ordinance 99-815A.

**Presiding Officer Monroe** opened a public hearing on Ordinance No. 99-815A. No one came forward. Presiding Officer Monroe closed the public hearing.

**Vote on the Main Motion:** The vote was 7 aye/ 0 nay/ 0 abstain. The motion passed approving Ordinance 99-815A.

7.3 **Ordinance No. 99-817A**, For the Purpose of Amending the Metro Code 2.09.060 and 2.09.100 to Modify the Gross Receipts Threshold to \$250,000 and to Increase Fees for the Metro Contractor's Business License Program.

**Motion:** **Councilor Atherton** moved to adopt Ordinance No. 99-817A.

**Seconded:** **Councilor Washington** seconded the motion.

**Councilor Atherton** asked Mr. Moss to make a staff presentation.

**Scott Moss**, Assistant Director of ASD, introduced Kerry Gilbreth, Accounts Payable Supervisor, and Christine Mijares, Accounts Payable Assistant and responsible for the program. He explained the recent bill passed by the Oregon Legislature increasing the Contractor's Business Licensing Program from gross earnings of \$125,000 to \$250,000 and allowing small contractors within the Metropolitan region to do business with one license instead of purchasing as many as 19 individual licenses for the same area. Metro's fee had increased from \$110.00 to \$135.00.

**Councilor Atherton** asked why the City of Portland did not join in this process.

**Mr. Moss** responded that although they were asked, they deferred, and he suspected that it was because they did not want to lose the revenue.

**Mr. Cooper**, Legal Counsel, said the City of Portland's business license was set up very differently than other local jurisdictions. It was measured by the net income of all businesses and was a tax measure, rather than a regulatory measure. They did not have a separate regulatory registration required for contractors, as other jurisdictions do.

**Councilor Atherton** asked Mr. Cooper why he characterized this as a regulatory measure rather than a revenue measure.

**Mr. Cooper** said the jurisdictions outside the City of Portland typically charge a flat fee. The City of Portland charges a license fee that was a percentage of net income as reported on state income tax returns.

**Councilor Atherton** said 24.5% of this revenue goes to Metro. This was more than just a pass-through. Why was it so high?

**Mr. Moss** said what was done with that 24.5% was to offset the administrative and advertisement costs in promoting the program.

**Councilor Atherton** asked if the advertising program encouraged compliance.

**Mr. Moss** agreed.

**Presiding Officer Monroe** clarified that it was to encourage participation more than compliance.

**Mr. Moss** agreed stating compliance and participation.

**Councilor Atherton** said with the higher gross receipts threshold, larger operators are now encouraged, as well.

**Mr. Moss** said a study was done to determine the inflationary amount over the last 11 years and it about equals the inflationary amount.

**Presiding Officer Monroe** opened a public hearing on Ordinance No. 99-817A. No one came forward. Presiding Officer Monroe closed the public hearing.

**Councilor Atherton** said that none of the organizations that he had contact with had registered any objections to this ordinance.

**Vote:** The vote was 7 aye/ 0 nay/ 0 abstain. The motion passed on Ordinance No. 99-817A.

7.4 **Ordinance No. 99-818A**, For the Purpose of Amending Metro Code Requirements for Urban Growth Boundary Amendments, Urban Reserve Planning Requirements in Title 11 of the Urban Growth Management Functional Plan and Appendices A and B of the Regional Framework Plan and Metro Code Requirements for Local Government Boundary Changes and Declaring an Emergency.

**Motion:** **Councilor McLain** moved to adopt Ordinance No. 99-818A.

**Seconded:** **Councilor Bragdon** seconded the motion.

**Councilor McLain** expressed the hard work done by Metro legal department and the local jurisdictions and their legal staffs in preparing this ordinance. The goals for this document were to first, put in place all the changes that needed to be made to bring the Metro Code in accord with state law, giving Metro authority to amend their jurisdictional boundary. Second, to clarify what and when local comprehensive plan amendment decisions must be made before land brought inside the UGB can be urbanized. Third, separation of the process and criteria by which the Council adopted urban reserves from the urban growth boundary amendment process. These issues do not add nor take from Metro authority, but do clear up same old Metro Code language and consider new suggestions. The following were changes:

- Definition Section deleted the first tier section; locational adjustments were now limited to areas outside the urban reserves; major amendments could be made in any size within an urban reserve, but must be more than 20 acres outside an urban reserve.



- The Urban Reserve Areas section was much shorter with much of the detail moved to Title 11 – the Functional Plan – with direct relationship to suggestion or requirements especially of local jurisdictional partners.
- Legislative Amendment Procedures section clarified that legislative amendments were initiated with a need requirement, that State Goal 14 be satisfied and based upon evidence in the record applying to State Goals 2 and 14. This amendment reflected good language changes by clarifying how Metro related to state law and how Metro was following state law in our review of the UGB amendments.
- Legislative Amendment Criteria – included new language in Section G allowing for amendment of the urban reserve boundaries, at the same time as amending the UGB but by not more than 10% of the urban reserve acreage based on efficiencies in future development. With this language Council could make two decisions at the same time.
- Requirements for Areas Added to the UGB by Legislative or Major Amendment called on the Council to establish a time period for the designated city or county to come into compliance with the requirements of the Functional Plan and Title 11 with a time period of not less than two years.
- Local Government Boundary Changes – added minor boundary changes by new state law and the UGB amendment area and comprehensive plan requirements had a new purpose and intent language.

**Councilor McLain** stated that MPAC made several suggestions regarding the designation of the 2040 Growth Concept Design Types and consultation with local jurisdictions. Mr. Cooper did a good job in producing a document and a Code that takes care of Metro's needs. Councilor Atherton asked if the existing or new Code language required Metro to designate a government to urbanize an area inside the UGB in instances where no local jurisdiction had offered to do so. Mr. Cooper explained that the Code language contemplates that the Council would make the designation. Mr. Cooper explained the process of how that would happen. Councilor McLain recommended passage because it was the first step in being able to review the UGB in October, 1999 and will make sure that any requests to amend the UGB are all under the same code.

**Presiding Officer Monroe** opened a public hearing on Ordinance No. 99-818A. No one came forward. Presiding Officer Monroe closed the public hearing.

**Councilor Kvistad** indicated he had several questions, most likely directed to Councilor McLain and legal counsel, Mr. Cooper.

Page 7 (c) Plans For Urban Reserve Areas: third line, "all provisions of the Urban Growth Management Functional Plan prior . . ." Councilor Kvistad's question of the words "all" and "prior" as being fairly proscriptive.

**Mr. Cooper** said this section was added to reflect that under current law, cities and/or counties have the ability to adopt comprehensive plan amendments for the future growth, in the case of cities, outside of their territorial boundaries, or in the case of a county, for areas that were outside of the urban growth boundary. They cannot provide for urbanization to occur until after the urban growth boundary was moved, but they can do the preplanning for those areas. That is

consistent with the concept plans called for in the original urban reserve designation. This language reflects that the level of the planning that they may choose to do may go beyond the concept plans that are guided by the standards in Title 11, and if they choose to go further than that, then Title 1, Title 6 and Title 3 – that have applicable provisions, are going to apply to that level of detail.

**Councilor Kvistad** asked if the term “all” was more restrictive or less restrictive.

**Mr. Cooper** said this language allowed for options to be created that currently did not exist. So it was less restrictive giving local governments flexibility that they otherwise would not have. It was not necessarily less restrictive than the current Functional Plan provisions because it clarified that they do apply at the time the amendments were made.

**Councilor Kvistad** directed attention to page 14, subsection (5) dealing with Council actions. Previously, “prior” was not used as terminology. Why was it added?

**Mr. Cooper** said this language took the place of other language elsewhere that had set up the two-step process for amendments to the urban growth boundary where the land was outside the Metro boundary. Last December, the Council passed a resolution of intent to move the urban growth boundary and to endorse property owner petitions to annex to Metro. Then the property owners in that area had the responsibility to go to the other government, and petition them to take the legal action to move the boundary to include the territory within Metro’s jurisdiction, then the Code provided for the Council to have the ability to move the urban growth boundary by ordinance. This section sets out the process: when the Council intends to move the urban growth boundary to include land outside the Metro boundary, it first deals with the jurisdictional issue. That’s the word “prior.” It simply implies that the first vote needs to be on the annexation, and both votes can be on the same day. They are distinct processes because the annexation decision was a separate land use decision.

**Councilor Kvistad** reiterated saying to avoid the problem Council has had in the past, prior to voting on that land itself, Council would take the initial vote to bring it into the Metro service boundary, and then vote on the actual annexation.

**Mr. Cooper** agreed.

**Councilor Kvistad** referred to page 25, new section (g), “adjacent nonresource lands up to 10 percent of the total acreage.” Was that due to the urban reserve rule or was that a number that was set by Metro, and if it was set by Metro, why the limit?

**Mr. Cooper** said that section spoke to amendments to the Urban Reserves, so they were within the context of the urban reserve rule. The 10% and nonresource land characteristics of these limitations were ones that came out of early recommendations from MTAC that originated last Spring. They were policy choices recommended to Council by MTAC and MPAC early on in the process.

**Councilor Kvistad** asked Councilor McLain to address why ten percent and why the Council did not have the flexibility to make that determination?

**Councilor McLain** said her understanding of why this was advantageous was because Metro partners indicated that there were urban reserve boundary lines that might need refining because of service and service provisions.

**Mr. Cooper** said that was true, but as he understood Councilor Kvistad's question, it was why stop at ten, or 12, or eight. Mr. Cooper did not know the answer to that.

**Councilor Kvistad** said this was a policy change that reduced the flexibility of the Council.

**Mr. Cooper** said what the language did was to make it more flexible over what was currently in place which was no flexibility. It codified more flexibility.

**Councilor McLain** said as she remembered the conversation, a percentage was specified because of a need to recognize the area as a boundary line issue, not an additional urban reserve issue. Ten percent was chosen to represent the land as a line issue, not an additional issue.

**Councilor Kvistad** asked for clarification of page 29, new section H, "the Executive Officer may postpone the scheduling of the hearing."

**Mr. Cooper** responded that this was a technical amendment trying to address how to get to the authority to deal with re-scheduling. It had occurred in the past, and the active status of the locational and major amendment applications had been questioned.

**Councilor Kvistad** restated that this would allow some flexibility rather than meeting a specific date deadline. The Executive Officer had the flexibility to postpone without affecting the applicant's ability to move forward.

**Mr. Cooper** said that was correct.

**Councilor Kvistad** referred to page 34, (6), "average residential densities of at least 10 dwelling units per net developable residential acre." Locational adjustments were being addressed here. In that process and with that new language, 10 units per acre on the urban edge was dysfunctional because the community needed to be dealt with as a whole, and allow the city to be more dense in the center. When it was said an average of 10 dwelling units per acre, which was new language for this section, Metro was addressing the overall densities of the region as a whole and the jurisdictions in particular, not of the lands in themselves for the locational adjustment.

**Councilor McLain** responded addressing the first half of the question, "demonstrate average residential densities of at least 10 dwelling units per net developable acre, or lower densities, which conform to the 2040 Growth Concept." So, at the edge, there were options to do the average 10 dwelling units per acre, or if it was an outside neighborhood on the edge, then some of the other 2040 designs could be explored.

**Councilor Kvistad** said he wanted to make sure that that interpretation was accurate.

**Councilor McLain** asked Mr. Cooper if that was accurate.

**Mr. Cooper** said yes.

**Councilor Kvistad** asked for an explanation of the new changes in Areas Added to the Urban Growth Boundary by a Legislative or Major Amendment, page 36, 3.01.040.

**Mr. Cooper** said the sub A provisions were existing code provisions that have been inserted here and also in Title 11. They had been moved from the urban reserve section.

**Councilor Kvistad** clarified that there were no substantive changes in this new version. He said he did not understand section (5) in this context.

**Mr. Cooper** said this was a provision that they tried to carefully construct with local governments and other land use partners because it was a reflection that all of the requirements of Title 11 were not always going to be applicable in any one given area. The first sentence said that at the time an urban growth boundary was adopted by the Council, it could be more specific about how the general criteria in Title 11 should apply to the specific area that was being added. The second sentence addressed special land needs that were the basis for the amendment. The last sentence recognized that when the local governments began doing these comprehensive plan amendments, they would be at a level of detail far greater than what was required by Title 11. Title 11 dealt with the overall, specific details would be completed closer to the actual development of the land. Specific interpretations were not Metro Council business.

**Councilor Kvistad** referred to page 43, the purpose of Title 11 and asked for an interpretation.

**Mr. Cooper** said they had worked that sentence a great deal. The buzz word was “communities.” The land being added to the urban growth boundary was intended to become part of a community. Which community, existing or new, was one not specifically addressed. But, land being added to the urban growth boundary should be viewed consistent with the 2040 Growth Concept as being part of something greater.

**Councilor Kvistad** said his last question was on page 44, under 3.07.1120 Urban Growth Boundary Amendment. “Comprehensive plan provision shall be fully coordinated with all other applicable plans.” The term “fully coordinated” seems new language and more restrictive.

**Mr. Cooper** said in the previous language there were three sections that dealt with governance. These were troublesome to interpret and viewed by many as being either overly restrictive or not protective enough of local government interests. The fully coordinated language meant that both procedural coordination of consultation between all the affected governments must occur, as well as the substantive coordination of the things must be consistent. This language reflected the statutory provision that gave this Council the final say in the dispute between Beaverton, Portland and Washington County regarding the urban service boundaries. That was what was intended here. The Metro Council would be the decisionmakers.

**Councilor Kvistad** said that interpretation was interesting but he did not read it that way.

**Councilor McLain** said she thought Mr. Cooper had fairly indicated that the local jurisdictions were more comfortable with the Council calling out all the different plans. That was what had occurred the first time.

**Councilor Kvistad** said he understood the goal, but the language stated “shall be fully coordinated with all.”

**Councilor McLain** said they were comfortable with this.

**Councilor Kvistad** responded that they may be comfortable, but how realistic was it.

**Councilor McLain** said in Goal 14 there were specific issues outlined.

**Mr. Cooper** stated he thought it was possible to do this. This was not going to create insurmountable barriers to land being urbanized.

**Councilor Kvistad** said he understood Mr. Cooper's interpretation, but thought this language was far too restrictive for the Council. He had no further questions.

**Councilor Atherton** asked why it was necessary to add emergency language to this ordinance.

**Councilor McLain** stated this question was one of policy more than legal. In regard to the issues facing Council this Fall, Growth Committee felt it was extremely important to have the Code in place before going forward discussing the urban growth boundary amendments. It was inappropriate for Council to be in a situation having to make decisions without having the Code amended. The emergency clause made the ordinance effective in time for the scheduled hearings.

**Councilor Atherton** paraphrased that in order to meet the state mandates under the 20-year land law and the amendments, Metro needed to hurry this ordinance. This was an important amendment to the Code and the region, and there was no public testimony.

**Councilor McLain** said there was no hurry. There has been so much dialogue with local partners, that they were comfortable not being here on this issue. The emergency clause does nothing more than put it into action.

**Councilor Atherton** asked about the governance issues, he referred to page 37, (1) which stated the "affected local governments have agreed as to which local government or governments shall be responsible, the Council shall so designate." Why was it necessary to have Metro designate?

**Councilor McLain** responded that the local jurisdictions have assisted with the language making sure a process was established. This was only after local jurisdictions had not been able to decide on their own. The state had mandated coordination. Two items were addressed in this section: one, the Council recognized its responsibility, and, recognized the local jurisdictions' need for a process with MPAC's consultation.

**Councilor Atherton** asked Mr. Cooper for a legal interpretation on this. Was Metro required under state law to designate a body to govern these areas?

**Mr. Cooper** said the specific provisions of the 20-year land supply which mandated moving the urban growth boundary did not so require this designation. However, the provisions of state law which set forth Metro's ability to, and responsibility for adopting the Framework Plan and Functional Plans recognized that Council had the authority, and historically, when the Council adopted the urban reserves in 1997 and set up the urban reserves planning requirements was to ensure that there was a government that had done planning for land that was brought into the

urban growth boundary and this was a continuation from the plans being required to be done before the boundary was moved to allowing them to occur afterwards.

**Councilor Atherton** said the law gives the Council the authority to designate governance and enforce a community to serve an area, the Council does have the authority to force a jurisdiction to serve an area but there was nothing requiring the exercise of that.

**Mr. Cooper** clarified that the Council had the authority to do it, but were not mandated to do it.

**Councilor Atherton** stated he wanted to make an amendment to change that mandate and to make it very clear that Council does not have to exercise that authority. That was really a local concern, not Metro's concern.

**Presiding Officer Monroe** indicated it was appropriate to propose an amendment at any time during debate.

**Councilor Atherton** offered the following amendment to page 37, (1), ~~If there is no agreement, then the Council shall, consistent with ORS 195.065 to 195.085, establish a process to determine which local government or governments shall be responsible and at the conclusion of the process, so designate.~~

**Motion to Amend:** **Councilor Atherton** moved to amend page 37 (1) by striking the entire last sentence.

**Seconded:** No one seconded the motion. The motion died for lack of a second.

**Councilor Atherton** said one of the key Metro functions was to evaluate the cumulative impacts of many small decisions on regional concerns. He asked Councilor McLain and Mr. Cooper how these Metro changes accomplish that goal.

**Councilor McLain** said she was not clear on his question. She paraphrased his question. The Code is supposed to look at many small decisions and decide on a composite action.

**Councilor Atherton** said yes, that was the whole concept of master planning, concept planning, and he introduced the term, concept assessment, but the whole idea was to be the cumulative impacts of many smaller development decisions.

**Councilor McLain** responded that whether it was called a review, an assessment, or an evaluation, Metro was doing the same process in the same place in the Functional Plan, using the same language from the old code. She said the composite review was being done under the Functional Plan, as it should be. She noted that each time this topic had come up, Councilor Atherton had asked how Metro would make sure the local jurisdiction's concept plan got built. She noted that in this review, Council was evaluating whether a jurisdiction had actually stood up to the 2040 design types, Titles 1 through 7, and whether their planning had been applied in such a way that made urbanization fit the growth plan.

**Councilor Atherton** said the only problem he could see was that page 36, Metro Code 3.01.040 (b), read, "Unless a comprehensive plan amendment has been previously approved for the land

pursuant to 3.01.012(d), when it adopts a Legislative or major amendment adding land to the UGB, the Council shall take the following actions:...” He believed this meant the local jurisdiction could have changed its comprehensive plan prior to the UGB change and Metro’s evaluation of it, thereby making Metro’s review moot.

**Councilor McLain** thought Mr. Cooper should answer to help understand the process of how the government, the county or the city, actually finished up the comprehensive plan changes.

**Mr. Cooper** said Council’s policy debate went to the heart of whether the standards and criteria in Title 11 were adequate to achieve what Councilor Atherton argued the Council should be doing. He added that whether the Council had done what Councilor Atherton was urging was a question for the Council to discuss and decide. If they decided they had not, then they should address those issues in the context of these code amendments. He said the code amendments did not address whether the Council had done that job adequately, it only addressed the timing and the procedures. If the land had been planned before it was brought into the UGB, consistent with Title 11, and the criteria in Title 11 were sufficient to achieve the Council’s policy goals, there would not be a problem.

**Councilor Atherton** read from the bottom of page 7, section C, last sentence on the page, “prior to the preparation or adoption of any such comprehensive plan amendments at the request of a city or county, the Council shall establish the design types”. He asked if anyone had asked why counties were doing city business.

**Councilor McLain** said there had been conversation from the counties saying they wanted to get out of service provision. In the status quo, the situation was that both entities had the opportunity and the ability. She did not remember any conversations at MPAC about the language.

**Presiding Officer Monroe** added that there were very dense urban areas within the region that were not in any city, therefore the county had to have governance.

**Councilor Atherton** said they were talking about expanding urban settlement and bringing lands into the boundary.

**Councilor McLain** responded that if both a county and a city asked to serve both areas, there would be time for debate of the language then. If neither came in and Council had to choose, she felt many people’s preference would be city. She felt the debate could happen under the language presently on the page.

**Councilor Atherton** felt this was a lost opportunity to get some clarity on something that may have not been discussed in committee hearings. He said it had been discussed other places, in hallways and local jurisdictions, and the corridors of the statehouse. He reiterated that all three counties had stated they wanted to get out of this business so why not codify it.

**Motion to**

**Amend:** **Councilor Atherton** moved to strike the words “or county” from the bottom of page 7, subsection C, last line.

**Seconded:** After questions of Mr. Cooper and debate among the council, there was no second. The motion died for lack of a second.

**Councilor Atherton** asked Mr. Cooper if the ordinance prohibited Metro from designating an urban reserve outside and not contiguous to the current UGB, in other words, the new communities concept.

**Mr. Cooper** said this ordinance did not deal with that issue.

**Councilor McLain** said the committee had voted for a do-pass recommendation with a 3 – 0 vote. She was extremely proud of the work they had done on the document and she believed the code was an improvement and clarified the problems. She urged an aye vote

**Councilor Park** asked if there was a time restriction on this ordinance and if more time would give clarification to some.

**Councilor McLain** said she had spoken to the timeliness of this document previously. She believed it would not be advisable to not vote it out today because in staying with the decision of her committee, they wanted to make sure the Metro code was in place before any decisions on urban growth boundary amendments were made. This piece needed to be finished before they went on to the review of the Urban Growth Boundary update.

**Vote:** The vote was 5 aye/ 2 nay/ 0 abstain. The motion passed with Councilors Atherton and Kvistad voting nay.

## 8. RESOLUTIONS

8.1 **Resolution No. 99-2815A**, For the Purpose of Establishing a Response to ESA Listings for Salmon and Steelhead within a Natural Resource and Watershed Policy Framework.

**Motion:** **Councilor McLain** moved to adopt Resolution No. 99-2815A.

**Seconded:** **Councilor Bragdon** seconded the motion.

**Councilor McLain** said this resolution had come through committee with a do pass recommendation. She said it had quite a bit of discussion at both WRPAC and MPAC. The resolution would allow the council to have an opportunity to weigh in on this very important policy issue. It provides an opportunity to be proactive and show concern for water issues and Goal 5 and wildlife habitat issues as well as stormwater and ESA issues. She asked Dr. Moskowitz for comments before they had debate on the issue.

**Dr. David Moskowitz**, Metro Salmon Recovery Coordinator, said everyone had worked hard on this. He said the baseline report for this resolution was in the works and the first quarterly report would be before Council before the end of the year. He invited the council to attend the Salmon Festival October 9<sup>th</sup> and 10<sup>th</sup> at Oxbow Park.

**Motion:** **Councilor Kvistad** called attention to Number 7 in the “BE IT RESOLVEDS”. He moved to change the wording to read “that the Metro Executive would continue to assist the Metro Council in developing programs, policies, leading to a salmon steelhead recovery plan with the assistance of the salmon recovery coordinator and in coordination with the established Metro advisory committees such as MPAC and WRPAC.



**Councilor McLain** said she would accept it as a friendly amendment as it was a typo issue and the change would indeed be more accurate language.

**Motion:** **Councilor Park** moved to strike word “vibrant” in the first line of the first Whereas.

**Seconded:** **Councilor Bragdon** seconded the motion.

**Councilor McLain** said “vibrant” was an important part of the first whereas clause. She wanted to keep it there.

**Vote to Amend:** (to strike “vibrant”). The vote was 2 aye/ 5 nay, 0 abstain, the motion failed with Councilors Park and Kvistad voting to remove “vibrant”.

**Councilor Bragdon** noted that MPAC had endorsed the resolution.

**Councilor McLain** said it was a good start on the water and fish issues and urged an aye vote.

**Vote:** The vote was 7 aye/ 0 nay/ 0 abstain. The motion passed.

8.2 **Resolution No. 99-2823**, For the Purpose of Changing the Positions of Nancy Kraushaar, Mark Schoening, and Debrah Marriott on the Water Resources Policy Advisory Committee.

**Motion:** **Councilor Bragdon** moved to adopt Resolution No. 99-2823.

**Seconded:** **Councilor Washington** seconded the motion.

**Councilor Bragdon** reviewed this resolution that would change places between their alternate and voting members of the WRPAC board because the individuals’ ability to attend and because of turnover at the Lower Columbia River Estuary Program. He reported that both of these had come through WRPAC and had their approval.

**Vote:** The vote was 7 aye/ 0 nay/ 0 abstain. The motion passed.

8.3 **Resolution No. 99-2827**, For the Purpose of Confirming the Nominations of Rick Charriere, Seth Tane, Richard Reynolds and Julie Garver to the Regional Parks and Greenspaces Advisory Committee.

**Motion:** **Councilor Washington** moved to adopt Resolution No. 99-2827.

**Seconded:** **Councilor Kvistad** seconded the motion.

**Councilor Washington** said the purpose of the Regional Parks and Greenspaces Advisory Committee was to review comments and make recommendations related to policies, plans, programs, user fee structures, annual budget plans and other similar issues facing the Metro Regional Parks and Greenspaces Department. The committee serves in an advisory role. He

explained that these nominations would bring the committee back to its full potential. He urged an aye vote.

**Vote:** The vote was 7 aye/ 0 nay/ 0 abstain. The motion passed.

8.4 **Resolution No. 99-2829**, For the Purpose of Appointing Greg Diloreto and Rebecca Geisen as Alternate Members of the Water Resources Policy Advisory Committee.

**Motion:** **Councilor Bragdon** moved to adopt Resolution No. 99-2829.

**Seconded:** **Councilor Washington** seconded the motion.

**Councilor Bragdon** said this resolution also related to alternate appointments to the WRPAC board. The new alternates had been nominated due to a change in the make-up of the board. He noted that WRPAC had also reviewed this change and approved of it.

**Vote:** The vote was 7 aye/ 0 nay/ 0 abstain. The motion passed.

8.5 **Resolution No. 99-2830**, For the Purpose of Adopting the FY 00-03 Metropolitan Transportation Improvement Plan (MTIP).

**Motion:** **Councilor Bragdon** moved to adopt Resolution No. 99-2830.

**Seconded:** **Councilor Kvistad** seconded the motion.

**Councilor Bragdon** said this motion was further detail of the MTIP resolution that was discussed last spring. This broke it out year by year and provided more details on fund.

**Councilor Atherton** asked if this was a house keeping measure.

**Councilor Bragdon** said it was not house keeping in that it concerned significant amounts of money, but there was nothing that had not been previously approved by Council as well as JPACT.

**Councilor Park** commented that \$76 million was a lot of money, but not close to what was needed. He mentioned an opportunity he had to talk to someone from Laguna Beach California where a new section of freeway just opened. It is 26 lanes wide, including on and off ramps, and they forecast the usefulness of its design was only about 5 years before it was also clogged.

**Councilor Bragdon** urged an aye vote.

**Vote:** The vote was 7 aye/ 0 nay/ 0 abstain. The motion passed

8.6 **Resolution No. 99-2831**, For the Purpose of Amending the Membership of the TPAC Transportation Demand Management Subcommittee.

**Motion:** **Councilor Atherton** moved to adopt Resolution No. 99-2831.

**Seconded:** **Councilor Kvistad** seconded the motion.

**Councilor Atherton** reviewed the TDM subcommittee had been established as part of the TPAC and this resolution would remove DLCD from the membership and add the Port of Portland, Wilsonville SMART Program, and a member from the Transportation Management Association. He urged an aye vote.

**Vote:** The vote was 7 aye/ 0 nay/ 0 abstain. The motion passed.

8.7 **Resolution No. 99-2834A**, For the Purpose of Granting Time Extensions for the Cities of Milwaukie and Gladstone for Compliance with Title 3 of the Urban Growth Management Functional Plan.

**Motion:** **Councilor Bragdon** moved to adopt Resolution No. 99-2834A.

**Seconded:** **Councilor McLain** seconded the motion.

**Councilor Bragdon** said the Metro Code 3.07.820 allowed Metro Council to grant time extensions on the Functional Plan requirements to jurisdictions that demonstrated substantial progress or proof of good cause for failure to complete the requirements on time for particular items. He provided details of substantial progress in these two cases. He said the Growth Management committee had approved this unanimously and he urged an aye vote of the Council.

**Councilor Kvistad** said he had major issues with an extension that had not yet been granted to the City of Beaverton and Washington County. He felt it would be a mistake to grant this extension to other communities. He said he would make a motion to include the other areas as well.

**Motion to**

**Amend:** **Councilor Kvistad** moved to add Washington County and the City of Beaverton to the resolution.

**Seconded:** **Councilor Washington** seconded the motion.

**Councilor Kvistad** said if this motion succeeded, he wanted the resolutions returned to committee for a week so they could come to Council together so it would not appear to be a bias against other jurisdictions in the process.

**Councilor McLain** appreciated the sentiments behind Councilor Kvistad's desire but said she could not support the motion since the Growth Committee had purposely separated the motions. She pointed out that Council had been dealing with extensions for over a year including two passed from Washington County.

**Councilor Bragdon** said he appreciated the intent of the amendment also, though he would not support it either. His understanding was that no extensions had been denied, but there had been a request for further information. He understood that the requested information was forthcoming and speculated that the extension would be granted. He was willing to make a motion to table Gladstone and Milwaukie for a week to bring them forward together if that was the concern.

**Councilor Park** asked staff if there would be something in a week or two.

**Mary Weber**, Growth Management Community Development Planner, said the two remaining concerns for Washington County pertained to mitigation and encroachment in the water quality buffers. She said it was turning out well. What remained to be determined was the relationship between Unified Sewage Agency adopting those construction design standards. Nothing was expected back from them until the middle of October.

**Councilor Park** asked about Washington County's handling of Title 3. He felt it was a question of mechanics, not necessarily content at this time.

**Ms. Weber** said yes, not the content but the mechanics.

**Mr. Cooper** clarified that the resolution specified dates. The staff report attached recognized that Beaverton was requesting the extension until July 2000 and Washington County was requesting one to October 2000. He wanted to include in the record that Councilor Kvistad's motion was to reflect those two dates from the staff report.

**Councilor Atherton** agreed with Councilor Park's point that it was the USA Waste-Washington County connection and part of the bureaucratic process. He did not like to see it couched as a put down of Washington County because they had done extensive work on mitigating problems. He said he would not support this amendment to the resolution.

**Presiding Officer Monroe** said he had spoken to officials in Beaverton regarding this issue and felt they were close to resolving it within the normal process. He said he did favor granting the extensions after the necessary staff work had been completed but would not support the amendment at this time.

**Councilor Kvistad** said staff had recommended this move forward but the Executive had come in and requested something that was outside staff's original support for granting the extensions. They were dealing with a situation where they required local jurisdictions to pay for a land use planner and an attorney to get an extension so they could do more planning to meet the goals and guidelines. He felt that was inappropriate. He also noted that Washington County did not get credit for cleaning up the Tualatin River or other efforts.

**Vote to**

**Amend:** The vote was 2 aye/ 5 nay/ 0 abstain. The motion failed. Councilors Washington and Kvistad voted aye.

**Motion:** **Councilor Bragdon** moved to table Resolution No. 99-2834A to time certain October 14 with the intent that if the Washington County information was available it could be included.

**Seconded:** **Councilor Kvistad** seconded the motion.

**Vote:** The vote was 6 aye/ 0 nay/ 1 abstain. The motion passed with Councilor McLain abstaining from the vote.

8.8 **Resolution No. 99-2838**, For the Purpose of Providing Mailed Notice to Property Owners Affected by Title 3 of the Urban Growth Management Functional Plan.

**Motion:** **Councilor Park** moved to adopt Resolution No. 99-2838.

**Seconded:** **Councilor Washington** seconded the motion.

**Councilor Park** explained the resolution and urged an aye vote.

**Vote:** The vote was 7 aye/ 0 nay/ 0 abstain. The motion passed.

8.9 **Resolution No. 99-2844**, For the Purpose of Granting a Time Extension for the City of Gresham for Compliance with Title 3 of the Urban Growth Management Functional Plan.

**Motion:** **Councilor Bragdon** moved to adopt Resolution No. 99-2844.

**Seconded:** **Councilor McLain** seconded the motion.

**Councilor Bragdon** said Gresham had lost some planning staff but had a work program in place and other plans. The public approval process was needed for it to move ahead.

**Motion:** **Councilor Bragdon** moved to table this resolution until time certain October 14 so the resolutions could move forward together.

**Seconded:** **Councilor Kvistad** seconded the motion to table.

**Vote:** The vote was 5 aye/ 0 nay/ 2 abstain (Park and McLain). The motion passed.

## 9. COUNCILOR COMMUNICATION

**Presiding Officer Monroe** reminded the councilors about the public hearings in Gresham Monday evening and at Metro on October 7<sup>th</sup> in the afternoon.

**Councilor Park** thanked the Growth Management committee for their work for him on the last resolution.

**Councilor Kvistad** said he may have a conflict for the Monday hearing.

**Councilor Washington** said he did have a conflict for the Monday hearing.

**Councilor McLain** said she also would not be available for the Monday hearing.

**Jeff Stone**, Chief of Staff, advised the council that the first meeting for the IGA had happened and Metro staff was involved. He added that the DLCDC 45 day notice time was close.

**Councilor Park** said in terms of the IGA and asked if PFE missed their deadline what was the city's position.

**Mr. Cooper** said the process was moving forward with the documents needed to finance the convention center set up in a way that until the agreement was in place for operating the stadium, there would be no sale of stadium bonds.

**Presiding Office Monroe** noted that this was one of the reasons Council had insisted on separating the Civic Stadium bonds from the OCC bonds.

#### 10. ADJOURN

There being no further business to come before the Metro Council, Presiding Officer Monroe adjourned the meeting at 4:45 p.m.

Prepared by,

Chris Billington  
Clerk of the Council

Document Number	Document Date	Document Title	TO/FROM	RES/ORD
093099c-01	September 30, 1999	Memo – Phone message concerning the Time Extension for the City of Gresham Resolution No. 99-2844	Metro Council/ Sandra Newstrom	99-2844
093099c-02	September 22, 1999	Letter – MERC Implementation of Parking Audit Recommendation – Statis Re[prt	Alexis Dow, Metro Auditor/ Mark Williams, MERC General Manager	99-2844